

SUPREME COURT OF ARKANSAS

No. 10-321

JONESBORO CARE & REHAB
CENTER,

APPELLANT,

VS.

RONNA WOODS,

APPELLEE,

Opinion Delivered December 9, 2010

APPEAL FROM THE WORKERS'
COMPENSATION COMMISSION,
NO. F811200

DECISION OF WORKERS'
COMPENSATION COMMISSION
AFFIRMED; OPINION OF THE
COURT OF APPEALS VACATED.

JIM GUNTER, Associate Justice

Appellant Jonesboro Care & Rehab Center (the “Center”) appeals from the Workers’ Compensation Commission’s decision adopting the decision of the Administrative Law Judge (ALJ) that appellee Ronna Woods was performing employment services at the time of her injury. This case was first submitted to the court of appeals, which reversed the decision of the Commission. Thereafter, appellee petitioned for review, which we granted. Therefore, our jurisdiction is pursuant to Arkansas Supreme Court Rule 1-2(e). The only issue on appeal is whether substantial evidence supports the Commission’s decision. We affirm and vacate the opinion of the court of appeals.

Appellee began working for the Center as a certified nursing assistant in May 2007. Her duties included assisting, feeding, and cleaning the Center’s elderly patients. She typically worked the 10:00 p.m. to 6:00 a.m. shift beginning Sunday and ending Thursday. During

working hours, she was allowed two fifteen-minute breaks and one thirty-minute break for a meal. She was required to clock out for the thirty-minute break but not for the two fifteen-minute breaks. The Center required its employees to attend mandatory in-service seminars every other Friday from 10 a.m. until 11 a.m. These seminars, which were held in the dining hall, coincided with the dates employees received their paychecks, and the Center would distribute those checks at that time. The Center paid employees one hour's wages for their attendance at the seminar. Employees were required to clock in for the seminar and were not allowed to clock out until they had received their paycheck.

On Friday, October 24, 2008, appellee attended a regularly scheduled training seminar in the dining hall. She clocked in at 9:58 a.m. The meeting lasted twenty to thirty minutes and, at its conclusion, the director of nursing instructed the employees to form a line to receive their paychecks and to complete paperwork for a flu shot. The Center maintained a smoking area for its employees just outside the dining hall. Appellee testified that there were in excess of 200 people at the seminar and that the line was extremely long. She decided to wait outside in the designated smoking area until the line had thinned. Other employees stepped outside to smoke as well. After a few minutes, appellee decided to go back inside because of the cold weather. With a lighted cigarette in her hand, appellee walked over to a trash can to discard her chewing gum and fell onto the concrete pavement, fracturing her left humerus.

Appellee filed a claim seeking medical and temporary total disability benefits to a date yet to be determined. The Center controverted the claim in its entirety, asserting that the

injury occurred when she was not performing employment services. The ALJ awarded benefits, finding that appellee was performing employment services at the time of the injury because:

[T]he claimant was in the process of returning to the dining room, after having taken a cigarette break, while waiting for the line of employees, which had formed to complete documents and receive paychecks, to thin. The claimant had not received her paycheck nor had she clocked out at the time of her accidental injury. Further, the claimant had completed her smoke break and was returning to pick up her paycheck at the mandatory meeting at the time of her accident.

Appellant appealed this decision to the Commission, which affirmed and adopted the ALJ's opinion as its own. Appellant filed a timely notice of appeal from that order.

On appeal, this court views the evidence and all reasonable inferences therefrom in the light most favorable to the Commission's decision and affirms that decision when it is supported by substantial evidence. *Honeysuckle v. Curtis H. Stoutt, Inc.*, 2010 Ark. 328, 368 S.W.3d 64. Substantial evidence is evidence that a reasonable mind might accept as adequate to support a conclusion. *Id.* There may be substantial evidence to support the Commission's decision even though we might have reached a different conclusion if we had sat as the trier of fact or heard the case de novo. *Id.* It is exclusively within the province of the Commission to determine the credibility and the weight to be accorded to each witness's testimony. *Id.* We will not reverse the Commission's decision unless we are convinced that fair-minded persons with the same facts before them could not have reached the conclusions arrived at by the Commission. *Id.* The issue is not whether the appellate court might have reached a different result from the Commission, but rather whether reasonable minds could reach the

result found by the Commission. *Cedar Chem. Co. v. Knight*, 372 Ark. 233, 273 S.W.3d 473 (2008).

As its sole point on appeal, appellant contends that the Commission erred in finding appellee's injury was compensable because she was not performing employment services when she sustained the injury. Appellant maintains that at the time of her injury, appellee was taking a personal break that did not directly or indirectly advance her employer's interest. In particular, appellant asserts that appellee was finished with her work responsibility at the time of her injury and was waiting to pick up her paycheck, which appellant avers only advanced her own personal interest.

Appellee responds and characterizes the issue on appeal as whether there was substantial evidence in the record to support the Commission's decision that appellee was performing employment services, either directly or indirectly, at the time she was injured. Appellee suggests that substantial evidence supports the Commission's decision. Appellee points to the fact that she was at a mandatory in-service seminar on the day she was injured, that she was on the clock at the time of her injury, that she was required to pick up her paycheck after the in-service seminar, that she was waiting to pick up her paycheck and fill out necessary forms at the time of her injury, that she was not given specific directions as to what she could or could not do while she was waiting, that the line to pick up paychecks was extremely long, that several employees stepped just outside the seminar room to take a smoke break and wait for the line to shorten, and that she was on her way back into the seminar room to get in line

at the time she was injured. Appellee notes that it was a benefit to her employer that she attend the mandatory meeting so that she could receive instruction, training, and her paycheck.

In order for an accidental injury to be compensable, it must arise out of and in the course of employment. Ark. Code Ann. § 11-9-102(4)(A)(i) (Supp. 2009). A compensable injury does not include an injury that is inflicted upon the employee at a time when employment services are not being performed. Ark. Code Ann. § 11-9-102(4)(B)(iii). The phrase “in the course of employment” or the term “employment services” are not defined in the Workers’ Compensation Act. *Texarkana Sch. Dist. v. Conner*, 373 Ark. 372, 284 S.W.3d 57 (2008). Thus, it falls to the court to define these terms in a manner that neither broadens nor narrows the scope of the Act. *Id.*

An employee is performing employment services when he or she is doing something that is generally required by his or her employer. *Pifer v. Single Source Transp.*, 347 Ark. 851, 69 S.W.3d 1 (2002). We use the same test to determine whether an employee is performing employment services as we do when determining whether an employee is acting within the course and scope of employment. *Id.* The test is whether the injury occurred within the time and space boundaries of the employment, when the employee was carrying out the employer’s purpose or advancing the employer’s interest, directly or indirectly. *Id.* In *Conner*, we stated that where it was clear that the injury occurred outside the time and space boundaries of employment, the critical inquiry is whether the interests of the employer were being directly

or indirectly advanced by the employee at the time of the injury. 373 Ark. at 376–77, 284 S.W.3d at 61. Moreover, the issue of whether an employee was performing employment services within the course of employment depends on the particular facts and circumstances of each case. *Id.*

Based on the applicable standard of review, we affirm the Commission and vacate the decision of the court of appeals. Here, the Commission adopted the findings and conclusions of the ALJ, which determined that appellee was, at least indirectly, advancing her employer's interests. The Commission relied on facts in the record to support its decision, including that appellee attended the mandatory seminar on her day off and was compensated for her time; that after the instruction portion of the meeting was over, she was told to pick up her paycheck and fill out medical paperwork; that she was required to remain on the clock while she waited for her paycheck; that instead of waiting in a long line, appellee stepped just outside the seminar room to wait outside where she could smoke a cigarette; that other employees also stepped outside to wait for the line to shorten; and that as she was returning to the seminar room, she was injured. The Commission expressly found that appellant benefitted from its employees attending the seminar so that it could distribute information, conduct training, and dispense payroll checks to its employees. In finding appellee's injury was compensable, the Commission found that she was injured while she was returning to the seminar room after taking a short break and that, as required by her employer, appellee was still on the clock because she had yet to receive her paycheck.

Although this court might have reached a different conclusion, we must be mindful of our standard of review in appeals from the Commission—we are not to substitute our judgment for that of the Commission. *See Honeysuckle, supra*. Where a reasonably-minded person could reach the same result as the Commission, we are required to affirm. *Id.* Here, a reasonable person could reach the same decision as the Commission based on the facts in the record and find that appellee was continuing to advance her employer's interests, at least indirectly, by remaining on the premises until she had received her paycheck, filled out any necessary paperwork, and clocked out. Because substantial evidence supports the Commission's decision, we affirm.

Decision of the Workers' Compensation Commission affirmed; opinion of the court of appeals vacated.